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IN THE

Supreme Court of the United States

October Term, 1982

RHONDA ROTHBALLER

and

THE PEORIA JOURNAL STAR, INC.

Petitioners

v.

FRANK M. WANLESS

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE ILLINOIS SUPREME COURT

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QUESTIONS PRESENTED

I. WHETHER THE APPELLATE COURT BELOW ERRED IN REVERSING SUMMARY JUDGMENT FOR DEFENDANTS ON THE GROUNDS, INTER ALIA, THAT UNDER THE UNDISPUTED FACTS OF THIS CASE, A FAILURE TO FURTHER PURSUE VARIOUS "AVENUES OF INVESTIGATION" MAY SUSTAIN A FINDING OF ACTUAL MALICE AS DEFINED IN *NEW YORK TIMES V. SULLIVAN.*

II. WHETHER THE THIRD DISTRICT APPELLATE COURT OF THE STATE OF ILLINOIS ERRED IN REVERSING THE TRIAL COURT'S GRANT OF SUMMARY JUDGMENT FOR DEFENDANTS-PETITIONERS, AND IN HOLDING THAT THE ALLEGEDLY DEFAMATORY PUBLICATIONS AT ISSUE ARE NOT, AS A MATTER OF LAW, SUBSTANTIALLY TRUE.

** Pursuant to Supreme Court Rule 281, please be advised that the Peoria Journal Star, Inc. has no parent corporation. It owns all of the stock of PJS Publications, Inc.; Radio Grand; Forks, Inc.; Radio Colorado Springs, Inc.; Radio Billings, Inc.; Great Plains Radio, Inc.; Albuquerque Radio, Inc.; Compass Systems, Inc. and approximately 13% of the Stock of Peoria Development Corporation.

INDEX

	Page
Opinions Below	1
Jurisdictional Statement	1
Constitutional Provisions Involved	2
Statement of the Case	2
Argument:	
I. THE COURT BELOW ERRED IN REVERSING SUMMARY JUDGMENT FOR THE SOLE REASON THAT DEFENDANT HAD FAILED TO PURSUE TWO AVENUES OF INVESTIGATION PRIOR TO PUBLICATION	4
II. THE ALLEGED LIBELOUS STATEMENTS ARE SUBSTANTIALLY TRUE AS A MATTER OF LAW	9
Conclusion	15

TABLE OF CITATIONS

	Page
CASES	
Alpine Construction Co. v. *DeMaris*, 358 F.Supp. 422 (N.D. Ill. 1973)	7
Cox Broadcasting Corp. v. *Cohn*, 420 U.S. 469 (1975)	9
Curtis Publishing Co. v. Butts, 388 U.S. 130 (1967)	6,9
Fadell v. Minneapolis Star and Tribune Co., Inc., 425 F.Supp. 1075, 2 Media L. Rep. (BNA) 1961 (N.D. Ind. 1976), *aff'd*, 557 F.2d 107, 2 Media L. Rep. (BNA) 2198 (7th Cir. 1977), *cert. denied*, 434 U.S. 966 (1977)	7
Garrison v. Louisiana, 379 U.S. 64 (1964)	5,9
Guthrie v. Annabel, 50 Ill. App. 3d 969, 365 N.E. 2d 1367, 3 Media L. Rep. (BNA) 1152 (1977)	7
Hotchner v. Castillo-Puche, 551 F.2d 910, 2 Media L.Rep. (BNA) 1545 (2d Cir. 1977) *cert. denied sub. nom. Hotchner v. Doubleday & Co.*, 434 U.S. 834 (1977)	7
Hurley v. Northwest Publications, Inc., 273 F.Supp. 967 (D. Minn. 1967), *aff'd*, 398 F.2d 346 (8th Cir. 1968)	7
Malerba v. Newsday, Inc., 64 A.D.2d 623, 406 N.Y.S.2d 552, 4 Media L.Rep. (BNA) 1110 (N.Y. App. Div. 1978)	7
Nader v. de Toledano, 408 A.2d 31 (D.C. 1979)	12
New York Times Co. v. Connor, 365 F.2d 567 (5th Cir. 1966)	7
New York Times v. Sullivan, 376 U.S. 254 (1964)	4,5,7,8,9
Orr v. Argus-Press Co., 586 F.2d 1108 (6th Cir. 1978) *cert. denied*, 440 U.S. 960 (1979)	6

Page

Pape v. Time, Inc., 294 F.Supp 1087 (N.D. Ill. 1969), *rev'd on other grounds*, 419 F.2d 980 (7th Cir. 1969), *rev'd*, 401 U.S. 279 (1971) 9

Pauling v. Nat'l Review, Inc., 49 Misc. 2d 975, 269 N.Y.S.2d 11 (N.Y. Co. 1966), *aff'd*, 27 A.D. 903, 281 N.Y.S.2d 716 (1st Dep't 1967), *aff'd*, 22 N.Y.2d 818, 292 N.Y.S.2d 913, 239 N.E.2d 254 (1968) 8

Pedrick v. Peoria & Eastern R.R., 229 N.E.2d 510 (Ill. 1967) 12

Ragano v. Time, Inc., 302 F.Supp. 1005 (M.D. Fla. 1969) 4

Reliance Insurance Co. v. Barron's, 442 F.Supp. 1341 (S.D.N.Y. 1977) 7

Rinaldi v. Holt, Rinehart & Winston, Inc., 42 N.Y.2d 369, 397 N.Y.2d 943, 366 N.E.2d 1299, 2 Media L.Rep. (BNA) 2169, *cert. denied*, 434 U.S. 969 (1977) 9

Repsold v. New York Life Insurance Co., 216 F.2d 499 (7th Cir. 1954) 12

Rose v. Koch, 278 Minn. 235, 154 N.W.2d 409 (1967) 7

Samborsky v. Hearst Corp., 2 Media Rep. (BNA) 1638 (D. Md. 1977) 7

St. Amant v. Thompson, 390 U.S. 727 (1968) 5,6,7

Time, Inc. v. Pape, 401 U.S. 279 (1971) 6

Trans World Accounts, Inc. v. Associated Press, 425 F.Supp. 814, 2 Media L.Rep. (BNA) 1334 (N.D. Cal. 1977) 7

United States v. Diebold, Inc., 369 U.S. 654 (1962) 12

Welch v. Chicago Tribune Co., 34 Ill.App. 3d 1046, 340 N.E. 2d 539 (1975) 12

Page

CONSTITUTIONAL AND STATUTORY AUTHORITIES:

U.S. Const. amend. I 2

U.S. Const. amend. XIV. 2

28 U.S.C. § 1257(3) (1976) 2

OTHER AUTHORITIES:

Prosser, Law of Torts § 116 (4th ed. 1971) 9

Restatement (Second) of Torts § 581A comment f (1976) 9

Restatement (Second) of Torts § 614 (1976) 12

Illinois State Bar Association Opinion 274 and 289 11,13

Ill Const. art. I, § 4 9

Illinois Code of Professional Responsibility, Canons 5, 8 and 9 11,14

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OPINIONS BELOW

The opinion of the Third District Appellate Court of Illinois is unreported, but set forth in the App. at 1a.

JURISDICTIONAL STATEMENT

This action for libel was filed by Frank M. Wanless in the Tenth Judicial Circuit Court of Illinois on December 29, 1977. On December 18, 1980 Defendants filed a Motion for Partial Summary Judgment alleging defenses of truth, innocent construction, protected opinion, and no actual malice. Said motion was granted by the trial court, over Plaintiff's opposition, on January 21, 1981.

Plaintiff thereupon orally moved to dismiss the balance of his action without prejudice, pending the outcome of his appeal to the Third District Appellate Court of Illinois. Following the filing of briefs, and the Appellate Court's consideration thereof, on May 12, 1982 the Appellate Court entered an order reversing the trial court's summary judgment for Defendants-Petitioners, and remanding the case for trial.

On June 2, 1982, Petitioners filed with the Third District Appellate Court a Motion for Rehearing, which was denied on June 30, 1982. On August 4, 1982, Petitioners filed in the Supreme Court of Illinois a Petition for Appeal as a Matter of Right, which was denied on October 5, 1982. App. at 8a. The Supreme Court of Illinois having declined to hear Petitioners' Appeal, jurisdiction over this matter is conferred on this Court by 28 U.S.C. § 1257(3) (1976).

CONSTITUTIONAL PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides, in part:

> "Congress shall make no law . . . abridging the freedom of speech, or of the press . . . "

The Fourteenth Amendment to the United States Constitution provides, in part:

> "No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

Frank M. Wanless, "city" attorney for the Village of Morton, County of Tazewell, Illinois, filed suit against Petitioners alleging that two articles written by Petitioner Rothballer and published in the Peoria Journal Star were false and

defamatory. Said articles appear in their entirety beginning at App. 9a. The remaining counts which are the subject of this Petition allege that the Articles contained the following false and defamatory assertions or implications:

(a) That plaintiff had been twice paid for preparing annexation papers—by the Village of Morton and by clients wishing to annex to the Village;

(b) That plaintiff was guilty of a conflict of interest in preparing annexation papers for one Fred Schmidgall;

(c) That plaintiff was guilty of a conflict of interest in representing opposite sides in controversies between the Village of Morton and unknown or unnamed parties;

(d) That plaintiff was in a conflict of interest in preparing a rezoning ordinance which rezoned property owned by his wife.

Plaintiff has denied any conflict of interest. In support of Petitioners' asserted defenses of truth it is undisputed that during the period discussed in the articles complained of, plaintiff was on a retainer of $1,500.00 per month as attorney for the Village of Morton, and that one of his official duties was to examine, and approve as being in order, petitions presented to the Village Board for the annexation of property to the Village of Morton. It also is undisputed that on several occasions, Wanless prepared petitions for annexation of property owned by his private clients, including one Fred Schmidgall, and then, as part of his official duties, reviewed and approved said petitions for presentation to the Village Board. It also is undisputed that Mr. Wanless did also prepare a petition for rezoning of his wife's property.

With respect to the claim of Constitutional privilege under *New York Times v. Sullivan,* 376 U.S. 254 (1964), Petitioners assert that Mr. Wanless, in response to their Motion for Partial Summary Judgment, was unable to "offer some evidence upon which a jury could find [proof with] convincing clarity of actual malice or reckless disregard." *Ragano v. Time, Inc.,* 302 F. Supp. 1005, 1010 (M.D. Fla. 1969) (footnote omitted). The Appellate Court's judgment that a genuine issue of material fact existed with respect to whether Petitioners published with actual malice is plain error. Petitioners maintain that given the undisputed extensive factual investigation undertaken by Petitioner, Rothballer in preparing the challenged publications, the alleged failure to pursue two additional "avenues of investigation," App. at 5a, *cannot* constitute actual malice.

Petitioners maintain that the articles merely relate the fact of Mr. Wanless' dual representation of annexation petitioners and the Village Board, state the ethical provisions identifying and governing conflicts of interest, and published various persons opinions as to the applicability of those ethical provisions to Wanless' conduct. Petitioners assert, however, that the articles "leave it up to the readers to draw their own conclusions." App. at 4a.

I.

THE COURT BELOW ERRED IN REVERSING SUMMARY JUDGMENT FOR THE SOLE REASON THAT DEFENDANT HAD FAILED TO PURSUE TWO AVENUES OF INVESTIGATION PRIOR TO PUBLICATION

In *New York Times* v. *Sullivan,* 376 U.S. 254 (1964), the Supreme Court established constitutional protections for media defendants in defamation actions. The Court held that public officials must prove by clear and convincing evidence that defamatory statements were published with actual malice; that

is, with knowledge of falsity or reckless disregard for truth. In rejecting the common law rules of strict liability and presumed damages, the Court reaffirmed its commitment to the principle that uninhibited discussion of the conduct of public officials was fundamental to the operation of the American system of government. *Id.*, at 270.

> A rule compelling the critic of official conduct to guarantee the truth of all his factual assertions—and to do so on pain of libel judgments virtually unlimited in amount—leads to . . . self-censorship.

Id., at 279.

In *Garrison* v. *Louisiana*, 379 U.S. 64, 74 (1964), this Court held that actual malice in the form of reckless disregard for truth requires "a high degree of awareness of their probable falsity."

This Court further refined the definition of actual malice in *St. Amant* v. *Thompson*, 390 U.S. 727, 731 (1968), holding that "[t]here must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication."

> "Reckless disregard," it is true, cannot be fully encompassed in one infallible definition. Inevitably its outer limits will be marked out through case-by-case adjudication, as is true with so many legal standards for judging concrete cases, whether the standard is provided by the Constitution, statutes, or case law. Our cases, however, have furnished meaningful guidance for the further definition of a reckless publication. In *New York Times, supra*, the plaintiff did not satisfy his burden because the record failed to show that the publisher was aware of the likelihood that he was circulating false information. In *Garrison* v. *Louisiana*, 379 U.S. 64 (1964), also decided before the decision of the Louisiana Supreme Court in this case, the opinion emphasized the necessity for a showing that a false publication was made with a "high degree of awareness of . . . probable falsity."

> 379 U.S. at 74. Mr. Justice Harlan's opinion in *Curtis Publishing Co.* v. *Butts,* 388 U.S. 130, 153 (1967), stated that evidence of either deliberate falsification or reckless publication "despite the publisher's awareness of probable falsity" was essential to recovery by public officials in defamation actions. These cases are clear that reckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication. Publishing with such doubts shows reckless disregard for truth or falsity and demonstrates actual malice.

Id., at 730-31.

This Court's ruling in *St. Amant* v. *Thompson, supra,* identified the following evidence that may be employed to attempt to establish "actual malice":

1. The communication has been fabricated by the defendant;

2. It is the product of the defendant's imagination;

3. It is based wholly on an unverified anonymous telephone call;

4. It contains allegations that are so inherently improbable that only a reckless person would put them in circulation;

5. It is published despite obvious reasons to doubt the veracity of the informant upon whom the article is based or the accuracy of his reports.

The appellate court below found no evidence of any of the foregoing.

It is undisputed that mere failure to investigate does not in itself establish "actual malice." *St. Amant, supra,* at 733. It is equally well settled that a mistake in interpreting events or documents does not evidence the necessary state of mind. *Time, Inc.* v. *Pape,* 401 U.S. 279 (1971); *Orr* v. *Argus-Press*

Co., 586 F.2d 1108 (6th Cir. 1978), *cert. denied*, 440 U.S. 960 (1979). Publishing facts harmful to the plaintiff while not publishing others that were mitigating does not constitute actual malice. *Reliance Insurance Co.* v. *Barron's*, 442 F. Supp. 1341, 1352 (S.D.N.Y. 1977). It is similarly insufficient for a plaintiff to point to vituperation or exaggerated language. *Guthrie* v. *Annabel*, 50 Ill. App. 3d 969, 365 N.E. 2d 1367, 3 Media L. Rep. (BNA) 1152 (1977); *Rose* v. *Koch*, 278 Minn. 235, 154 N.W. 2d 409 (1967). Such evidence does not indicate a publisher's lack of belief in the truth of his statements.

Investigative failures, if they do not in context indicate knowledge of falsity or subjective awareness of probable falsity, cannot themselves constitute "actual malice." *St. Amant* v. *Thompson, supra*, at 733. Defendants have been held to be free of "actual malice" despite a general failure to investigate, *Id.*, failure to talk to the plaintiff before publication,[1] failure to verify information,[2] publication of material incapable of verification,[3] failure to discover that published material relied upon had later been retracted,[4] and failure to discover contradictory material in the defendant's files but not at the time of publication actually known to the defendant's employees responsible for the particular publication.[5]

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[1] *Hurley v. Northwest Publications, Inc.*, 273 F. Supp. 967 (D. Minn. 1967), *aff'd*, 398 F.2d 346 (8th Cir. 1968); *Malerba v. Newsday, Inc.*, 64 A.D.2d 623, 406 N.Y.S.2d 552, 4 Media L. Rep. (BNA) 1110, (N.Y. App. Div. 1978).

[2] *Samborsky v. Hearst Corp.*, 2 Media L. Rep. (BNA) 1638 (D. Md. 1977); *Fadell v. Minneapolis Star and Tribune Co., Inc.*, 425 F. Supp. 1075, 2 Media Rep. (BNA) 1961 (N.D. Ind. 1976), *aff'd* 557 F.2d 107, 2 Media L. Rep. 2198 (BNA) (7th Cir. 1977), *cert. denied*, 434 U.S. 966 (1977).

"While verification of the facts remains an important reporting standard, a reporter, without a 'high degree of awareness of their probable falsity', may rely on statements made by a single source even though they reflect only one side of the story without fear of libel prosecution by a public official." *New York Times Co. v. Connor*, 365 F.2d 567, 576 (5th Cir. 1966).

[3] *Hotchner v. Castillo-Puche*, 551 F.2d 910, 2 Media L. Rep. (BNA) 1545; (2d Cir. 1977), *cert. denied sub nom. Hotchner v. Doubleday & Co.*, 434 U.S. 834 (1977).

[4] *Alpine Construction Co. v. DeMaris*, 358 F. Supp. 422 (N.D. Ill. 1973).

[5] *New York Times Co. v. Sullivan*, 376 U.S. 254, 287 (1964); *Trans World Accounts, Inc. v. Associated Press*, 425 F. Supp. 814, 2 Media L. Rep.

(Footnote continues)

Failure to investigate constituted the only ground indicating a reckless state of mind and formed the basis for reversal of summary judgment by the court below:

> Plaintiff has shown avenues of investigation not pursued by defendants. Plaintiff alleges that the defendants failed to investigate and interview Fred Schmidgall whose annexation case was part of the alleged conflict of interest. Plaintiff also alleges that the defendants failed to check the status of a complaint filed against plaintiff with the Disciplinary Commission relating to these charges, which complaint was known to defendants. These omissions may well be excusable; however, the issue of whether the facts and circumstances of this case disclose a reckless disregard for the truth is not so free from doubt that an answer can be said to exist as a matter of law. The inaccurate statements made by defendants that plaintiff represented parties before the village board and was paid twice for the same work lend additional support to this conclusion.

App. at 5a-6a.

It is apparent that the allegedly "inaccurate statements made by defendants" are the only other basis for actual malice. Inaccuracy or even outright falsity of a statement can never give rise to liability absent evidence of a defendant's subjective awareness of falsity. *New York Times, supra.* The *only* evidence of a reckless or knowing state of mind cited by the court below is the defendants' failure to pursue two avenues of investigation. The decisional authorities of this Court unequivocally hold that such evidence can never rise to the level of "clear and convincing" proof of reckless or knowing falsehood.

(Footnote continued)

(BNA) 1334, (N.D. Cal. 1977); *Pauling v. Nat'l. Review, Inc.*, 49 Misc. 2d 975, 269 N.Y.S.2d 11 (N.Y. Co. 1966), *aff'd*, 27 A. D. 903, 281 N.Y.S.2d 716 (1st Dep't 1967) *aff'd*, 22 N.Y.2d 818, 292 N.Y.S.2d 913, 239 N.E.2d 654 (1968).

From the foregoing, it is apparent that the Court below erred in failing to affirm the trial court's action granting summary judgment in derrogation of the defendants' First Amendment rights as established by this Court.

II.

THE ALLEGED LIBELOUS STATEMENTS ARE SUBSTANTIALLY TRUE AS A MATTER OF LAW

Truth is a complete defense to defamation liability in public official/public figure libel litigation.

> [I]n defamation actions, where the protected interest is personal reputation, the prevailing view is that truth is a defense; and the message of *New York Times Co. v. Sullivan...*, *Garrison v. Louisiana...*, *Curtis Publishing Co....*, and like cases is that the defense of truth is constitutionally required where the subject of the publication is a public official or public figure." *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 489-90(1975) (footnote and citations omitted).

See also W. Prosser, Law of Torts § 116 (4th ed. 1971); Cf. Ill. Art. I, § 4. A public official libel plaintiff must not only plead and prove falsity as an element of the tort of libel, but he must establish falsity "with convincing clarity." *Pape v. Time, Inc.*, 294 F. Supp. 1087 (N.D. Ill. 1969), *rev'd on other grounds*, 419 F.2d 980 (7th Cir. 1969), *rev'd*, 401 U.S. 279 (1971). A defendant need not prove the literal truth of each precise statement made. "Slight inaccuracies of expression are immaterial provided that the defamatory charge is true in substance." Restatement (Second) of Torts § 581A comment f (1976). Moreover, the omission of minor details "in an otherwise basically accurate account is not actionable." *Rinaldi v. Holt, Rinehart & Winston, Inc.*, 42 N.Y.2d 369, 397 N.Y.2d 943, 366 N.E.2d 1299, 2 Media L. Rep. (BNA) 1169, *cert. denied*, 434 U.S. 969 (1977), so long as the article as a whole does not contain a defamatory imputation. *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 155 (1967) ("We ... hold that a 'public

figure' who is not a public official *may also recover damages for a defamatory falsehood whose substance makes substantial danger to reputation apparent"* (emphasis added)).

The assertions alleged by Mr. Wanless to be false and defamatory, as set forth in subparagraphs 8(a), 8(b), 8(e) and 8(k) of the Complaint and addressed by the Third Appellate Court of Illinois are:

> "(a) That plaintiff has been twice paid for preparing annexation papers—by the Village of Morton and by clients wishing to annex to the Village;
>
> (b) That plaintiff was guilty of conflict of interest in preparing required annexation papers for one Fred Schmidgall;
>
> (e) That . . . plaintiff had been guilty of a conflict of interest in representing opposite sides in controversies between the Village of Morton and unknown or unnamed parties;
>
> (k) That . . . plaintiff was in a conflict with his official duties in preparing a rezoning ordinance which involved his wife's property.

The court below found that "[n]one of the[se] statements can be said to be true as a matter of law." App. at 5a-6a.

The truth of allegations that Plaintiff Wanless, in preparing for the Board's consideration of annexation petitions on behalf of Fred Schmidgall and others, was guilty of numerous conflicts of interest, was found by the court below to present a jury question. Therefore, held the court, summary judgment was inappropriate even though "the basic facts do not seem to be in dispute." *Id.*

These undisputed facts are as follows:

> (a) Wanless did prepare for Fred Schmidgall and others annexation papers which were presented for consideration by the Morton Village Board at the same time that Wanless was serving as counsel to the Morton Village Board;

(b) That Canon 9 of the Illinois Code of Professional Responsibility does provide that "[a] lawyer shall not accept private employment in a matter in which he had substantial responsibility while he was a public employee."

(c) That Illinois State Bar Association Opinion 289 holds that Canon 9 "prohibits the lawyer in public employment, among other things, from accepting representation of a person or corporation who seeks favorable consideration on any matter pending before the public body by which he is employed."

(d) That Plaintiff does not believe his actions pose a conflict of interest because, in his view, a conflict is raised only when he urges the adoption of one of his clients' proposals which is not "in harmony with what the Village want[s] to be done."

(e) That various commentators—including former State's Attorney Bode, Attorney Ludwig Kolman of the Better Government Association of Chicago, and Village Trustee Ruth Ferguson—disagreed with Plaintiff's definition of conflict of interest and/or his role in preparing annexation petitions for private clients; and

(f) That the Morton Village Board voted not to adopt a proposal of one of its Trustees that Plaintiff prepare all annexation petitions at no cost to the annexing party, who nevertheless would still pay annexing fees to the Village.

Petitioners respectfully submit that the application of these undisputed facts to the professional canons on conflict of interest clearly falls within the province of the court, and not the jury.

In their Motion for Summary Judgment, Petitioners bore the burden of proving that no genuine issue of fact exists and that they are entitled to judgment as a matter of law. The production of enough evidence to demonstrate Petitioners' entitlement to a judgment if their evidence were uncontroverted at trial, then shifted to Plaintiff Wanless, the party opposing the motion, the burden of demonstrating at least a plausible ground for maintaining his cause of action, notwithstanding Petitioners'

contrary proofs. *See, e.g., Nader v. de Toledano,* 408 A.2d 31 (D.C. 1979); *Repsold v. New York Life Insurance Co.* 216 F.2d 479, 483 (7th Cir. 1954).

Motions for summary judgment must be construed in a light most favorable to the party opposing summary judgment, *United States v. Diebold, Inc.,* 369 U.S. 654, 655 (1962); *Pedrick v. Peoria & Eastern RR,* 229 N.E.2d 510, 513-14 (Ill. 1967), however, the fact issue to justify a trial of this case must be material.

Restatement (Second) of Torts §614 (1976) provides:

> "(1) The court determines
>
> (a) whether a communication is capable of bearing a particular meaning, and
>
> (b) whether that meaning is defamatory.
>
> (2) The jury determines whether a communication, capable of a defamatory meaning, was so understood by its recipient.

Thus, insofar as it is the function of the trial court to determine whether the publication is capable of being found defamatory, it is the court's duty to determine whether the publication is capable of being found false.

In opposition to Petitioners' Motion for Summary Judgment, Plaintiff Wanless filed no affidavits nor other rebuttal until after the Court had entered Summary Judgment for Defendants. The appellate court acknowledged that there was no dispute as to a material *fact* to be resolved by the jury. The only thing to be resolved was whether said facts constitute a conflict of interest. App. at 5a.

The Appellate Court below based this holding upon *Welch v. Chicago Tribune Co.,* 34 Ill. App.3d 1046, 340 N.E.2d 539 (1975). The issue presented in *Welch, supra,* was whether the plaintiff was an "alcoholic," based upon the undisputed fact that he drank fourteen to eighteen bottles of beer a day. The Court in *Welch, supra,* allowed the *jury* to determine whether

such drinking substantiated the charge of alcoholism because the court recognized the scientific fact that whether such drinking constitutes alcoholism "can vary from person to person." *Id.*, at 1054.

By contrast, in the instant case, the Illinois State Bar Association has already determined, conclusively as a matter of law, that an attorney engages in a conflict of interest when he acts as Wanless did: (a) when "a city attorney represent[s] an individual at a hearing before the city Zoning Board of Appeal or prepare[s] legal forms of presentation of the issues." ISBA Opinion No. 274; or (b) when "a member of the legal staff of a municipal corporation ... represents[s] a client before the city's planning commission." ISBA Opinion No. 289.[6]

Thus, under the applicable law of Illinois pertaining to professional conflicts of interest, a jury could not reasonably find that Wanless' conduct did not constitute such a conflict.

As noted, *supra*, Plaintiff Wanless failed to submit to the trial court affidavits or other pleadings opposing Petitioners' Motion for Summary Judgment.

On appeal, however, Plaintiff argued that he did not present his clients' annexation petitions to the Board. Rather, "these papers were delivered to the Village Clerk who later presented them to the Board." Appellants' (Plaintiffs') Brief to the Third Judicial Appellate Court of Illinois at 18. This distinction clearly does not make Petitioners' publication untrue. The annexation papers were prepared by Wanless for presentation to the Village Board, and their preparation alone by Wanless creates a conflict of interest.

Wanless also argued on appeal below that he was not guilty of a conflict of interest because "he was not benefitting financially by actions which he could influence." *Id.*

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[6] Any distinctions between the Village Board of Morton and a city's "zoning board" or "planning commissions" are irrelevant to the rules prohibiting a municipal attorney's representation of private clients on matters to be addressed by the governmental body to which said attorney is legal counsel.

The articles in question, however, do not state that Plaintiff benefitted financially from annexation decisions of the Village Board. They quoted persons who felt that Plaintiff engaged in conflicts of interest by acting on behalf of both parties to annexation proceedings. The articles also reported the fact that land owned by *Plaintiff's wife* increased in value due to the adoption of a rezoning ordinance prepared by Plaintiff. Finally, they published pertinent portions of Canons 5 and 8 of the Illinois Code of Professional Responsibility requiring that a lawyer exercise his professional judgment "free of compromising influences and loyalties," and condemning an attorney's professional involvement in matters wherein "his personal or professional interests are or . . . *may be in conflict with his official duties.*"

Petitioners did not state or reasonably imply that their assertions of a conflict of interest on Wanless' part turned on his having benefitted financially from annexations or other zoning resolutions enacted by the Board.

Thus, the undisputed fact that Wanless prepared annexation papers for presentation to the Village Board—to which he was legal counsel—makes the assertions of conflict of interest true. Similarly, the fact that Plaintiff involved himself in legal proceedings which posed even the reasonable potential for conflicting loyalties on his part creates—as accurately reported—a conflict of interest. Whether Plaintiff's interests were or were not in fact in harmony with the interests of the Village Board is irrelevant to whether he violated the ethical canons on conflicts of interest.

The final element of alleged libel upon which the trial court granted summary judgment is the assertion that plaintiff Wanless was paid twice for preparing annexation papers—by the Village of Morton and by clients wishing to annex to the Village. Plaintiff Wanless argued to the appellate court below that this allegation is false because he never was paid twice—by the Board and by private clients—for doing the same thing. Yet the deposition testimony of plaintiff Wanless demonstrated that plaintiff was paid by private clients for drafting annexation petitions, and also exercised and approved said petitions while acting in his capacity as Village Attorney. Plaintiff admitted

they were voted on by the Village Board. Plaintiff also admitted that, pursuant to his official duties, he attended Village Board meetings when said annexation petitions were presented, he gave his approval thereto, and he charged the Board for his time in attendance at said meetings. Plaintiff's examination and approval of petitions at the Village's expense is not perhaps the same as drafting said petitions at the expense of private clients, yet it surely constitutes "preparing" said petitions for proper consideration by the Board; and, when considered in the context of the entire article, the article remains substantially true.

CONCLUSION

Because of the substantial issues of constitutional law involved in this case, Petitioner respectfully requests that the Petition for Certiorari to the Illinois Supreme Court be granted.

Respectfully submitted,

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